REMARKS

Applicants respectfully request reconsideration of the above-referenced application in light of the amendments above and remarks that follow.

Claims 1-25, all the claims under consideration, were rejected as being anticipated by Boyden. Applicants have amended claims 1, 3 and 19.

At the outset, Applicant wishes to draw the attention of the Examiner to the differences in the problems being solved by the Boyden system and the claimed invention. The two concepts are different in the problem they solve, their approach to the problem, and the steps taken to solve that problem. Boyden is directed to a business-to-business electronic auction in which, much like E-Bay®, vehicles are placed online and buyers submit bids to purchase the vehicles. Each offer by a seller is its own miniature electronic auction. The vehicles do not leave the possession of the seller until a sale is made. However, Boyden is concerned with two issues; validation of the information provided by the seller and a uniform use of nomenclature. As a result, much of the validation and use of Blue Book information and third part data sources is done at the buyer's side, not in the formulation of the floor price or ask price.

In contrast thereto, Applicants invention is directed to the consignment of vehicles to one of a plurality of auctions; each auction having a different location and time. In other words, they are off line auctions at a variety of geographical locations. As a result, in the claimed method, auction data for the plurality of auctions is downloaded from a third party database and that data is stored to be used for consignment by sellers. A potential seller wishing to sell a vehicle at one of a plurality of auctions is provided access to the auction data at the website. The seller then notifies the one auction, at the website, of the vehicle consigned to the one auction.

In the Boyden system, although both the buyer and the seller access the website, there is no need to notify the one auction of a plurality of auctions because the very act of loading the offer for sale in Boyden creates the auction. It does not notify the buyers, the buyers enter the website to determine which vehicles are for sale and which

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auctions are currently ongoing. There is no need to notify the auction. Much like the E-Bay model, the buyers seek out individual goods and determine whether or not they want to place a bid. There is no schedule of a plurality of auctions nor does a seller need to download auction data from a third party database. Accordingly, the Figure 2J relied upon by the Office Action as notifying the auction of the vehicle consigned to the auction at the website, is nothing more than a seller report page. It is for seller's own internal use, not for the use of any auction. Under the Boyden model, where offers are released over the Internet more as an offer for sale to others on the website, for a predetermined time period (See Fig. 3B, showing auction time remaining), Figure 2J is not released to any "auction." There is no auction to release such a list to.

In light of the above, Applicants respectfully submit that claim 1 is vastly different, directed to a different solution and different approach than Boyden. For these reasons, Applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. §102.

Claims 2-18 depend from claim, either directly or indirectly, and define the invention with greater particularity. They also further highlight the differences in approach, and methodology steps between the claimed invention and the Boyden reference. By way of example, claims 2 and 3 further define the step of inputting vehicle information and letting the system server determine an adjusted floor price for the vehicle based upon the vehicle information. This adjusted floor price, which is then sent to the auction, either adjusted as taught in the specification and further claimed in claim 3 or as determined by the server. This occurs on the seller's side as it is the price setting mechanism for the vehicle prior to consignment.

On the other hand, the Office Action references paragraph 44 and detailed page 300c of Boyden. However, the use of the vehicle information in paragraph 44 is not to set a price for the seller, but rather for validation of the seller price by the buyer. Figures 3D, page 300c is on the buyer's side, not the seller's side of the transaction. It is already after the seller has "consigned" the vehicle to the electronic auction. It is not the claimed use of the data to determine an adjusted floor price prior to transmitting the

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adjusted floor price to the auction. Therefore, it highlights the difference between the claimed invention and the prior art.

The Office Action in rejecting claim 3, relies upon Figures 3D, 2A-D and the description of paragraph 44. However, this is mixing both pre and post use of vehicle identification information in an attempt to arrive at the claimed invention which utilizes the vehicle identification information prior to consignment. The description in paragraph 44 and Figure 3D is after any "consignment" to the electronic auction. The same arguments are true for overcoming the rejection of claims 4-8.

Claim 9 specifically highlights the difference between the claimed invention and the prior art. The Office Action relies on the fact that shipping instructions to the ultimate buyer are provided by Boyden. However, that is not the invention as claimed in claim 9. Claim 9 defines the step of notifying a transportation facility for transporting the consigned vehicle to the auction. There is no such consignment or transportation in Boyden because the electronic auction is a virtual auction. The only involvement at the website in the claimed invention is that the receipt of the submission of consignment of the vehicle at the website triggers the report to the transportation facility.

Claim 11 depends from claim 9 and further defines that the auction itself provides auction results to the server and provides access to the auction results to the seller at the website.

Lastly, again exemplary of a common theme of the differences, claim 12 defines that the server calculates the minimum value utilizing Black Book data. In rejecting the claim, the Office Action relies on Fig. 3D for the proposition that Boyden teaches the claimed invention. However, Fig. 3D is not a seller side calculation of value, but a buyer's side validation of the information provided by the seller.

Accordingly, Applicants respectfully submit that claims 2-18 are allowable as defining patentable combinations in their own right as well as depending from allowable claim 1. Applicants respectfully request the withdrawal of the rejection of claims 2-18.

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As recognized by the Office Action, claims 19-25 are defined as a system for substantially carrying out the method of claim 1. However, claims 19-25 as system claims, further define the difference between an off line auction as claimed and an electronic auction such as Boyden. Again, the system for the resale of vehicles at auction includes a server, the server downloading auction data for a plurality of auctions from a third party database.

For the virtual electronic auction of Boyden, there is no need to download a schedule of auctions because the seller creates the auction merely by putting the information on line. Furthermore, claim 19 requires at least one auction computer corresponding to a respective one of said auctions on the schedule of auctions. The system server notifies the auction computer that a vehicle is to be consigned to the respective auction. There is no plurality of auction computers in Boyden, nor as discussed above is there a need to notify any auction because the very act of submitting the data about a vehicle in Boyden starts the electronic auction process. This is very different from the off line auction process in which there is at least one of a plurality of auction computers corresponding to a respective auction. Accordingly, Applicants submit that claim 19 is not anticipated and respectfully requests the withdrawal of the rejection of claim 19 under 35 U.S.C. §102.

Claims 20-25 depend from claim 19 and define the invention with greater particularity. By way of example, claim 23 defines a third party database and said third party database communicating with said server to obtain a schedule of auctions. There is no such need for the server to obtain a schedule of auctions for consignment in Boyden for all the reasons discussed above; the schedule is irrelevant in Boyden's system.

Claim 24 defines the server communicating with a third party database to obtain vehicle information for determining the adjusted floor price for the seller.

Lastly, claim 25 again defines a structure, including a transportation computer so that the server can cause transportation of the vehicle to the auction. There is no need or even ability to transport a vehicle to the virtual auction of Boyden. Accordingly,

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Applicants submit that claims 20-25 are allowable as defining patentable combinations in their own right, as well as depending from allowable claim 19. Applicants respectfully request the qithdrawal of the rejection of claims 19-25 under 35 U.S.C. § 102.

Applicants have made a diligent effort to place the application in condition for allowance. If the Examiner is unable to issue an immediate Notice of Allowance, he is respectfully requested to telephone the undersigned attorney with a view towards discussing the outstanding issues.

Dated: March 7, 2006   Respectfully submitted,

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